

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY MICHAEL GIOIOSA, SR.,

Plaintiff

v.

AARON D. FORD, *et al.*,

Defendants.

Case No. 2:20-cv-00952-RFB-EJY

ORDER

I. DISCUSSION

On May 27, 2020, Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), filed an *in forma pauperis* application together with a civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1-1, 1). Plaintiff’s application to proceed *in forma pauperis* is incomplete.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3);

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form); and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

Plaintiff has not submitted a Financial Certificate or an inmate account statement for the previous six-month period. Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete. The Court grants Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents. Plaintiff must file a fully complete application to

1 proceed *in forma pauperis* on or before **July 27, 2020** if he seeks to proceed. Absent unusual
 2 circumstances, the Court will not grant any further extensions of time. If Plaintiff is unable to file a
 3 fully complete application to proceed *in forma pauperis* with all three required documents on or
 4 before **July 27, 2020**, the Court will dismiss this case without prejudice for Plaintiff to file a new
 5 case with the Court when Plaintiff is able to acquire all three of the documents needed to file a fully
 6 complete application to proceed *in forma pauperis*. A dismissal without prejudice means Plaintiff
 7 does not give up the right to refile the case with the Court, under a new case number, when Plaintiff
 8 has all three documents needed to submit with the application to proceed *in forma pauperis*.
 9 Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and
 10 instead pay the full filing fee of \$400 on or before **July 27, 2020** to proceed with this case. The
 11 Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not file the
 12 complaint unless and until Plaintiff timely files a fully complete application to proceed *in forma*
 13 *pauperis* with all three documents or pays the full \$400 filing fee.

14 **II. CONCLUSION**

15 For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff's application to proceed
 16 *in forma pauperis* (ECF No. 1) is denied without prejudice. Plaintiff may file a new and fully
 17 complete application to proceed *in forma pauperis* that includes all three documents by July 27,
 18 2020.

19 IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved
 20 form application to proceed *in forma pauperis* by an inmate, as well as the document entitled
 21 information and instructions for filing an *in forma pauperis* application.

22 IT IS FURTHER ORDERED that on or before **July 27, 2020**, Plaintiff shall either pay the
 23 full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50 administrative
 24 fee) or file with the Court:

- 25 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
- 26 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
- 27 3);

1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
2 (i.e. page 4 of this Court's approved form); and

3 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
4 **six-month period.**

5 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
6 proceed *in forma pauperis* with all three documents or pay the full \$400 filing fee for a civil action
7 on or before **July 27, 2020**, the Court will dismiss this action without prejudice for Plaintiff to refile
8 the case with the Court, under a new case number, when Plaintiff has all three documents needed to
9 file a complete application to proceed *in forma pauperis*.

10 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
11 No.1-1) but will not file it at this time.

12 DATED: May 28, 2020

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14 ELAYNA J. YOUCHAK
15 UNITED STATES MAGISTRATE JUDGE
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